UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/266,269	03/11/1999	YOSHIHIRO HONMA	35.G2354	5569

5514 7590 11/17/2004

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER
AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
2615	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/266,269	HONMA, YOSHIHIRO
	Examiner	Art Unit	
	Yogesh K Aggarwal	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *24-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

Response to Arguments

1.   Applicant's arguments with respect to claims 24-31 have been considered but are moot in

view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson

(US Patent # 6,262,769) in view of Applicant's admitted prior art and in further view of Masimo et al. (US

Patent # 5,189,404).

[Claim 24]

Regarding claim 24, Anderson teaches an image processing apparatus (digital camera

1 10) comprising: an image capture unit (imaging device 1 14) (Fig. 3), a memory (DRAM 346)

adapted to store a first image (image data) captured by said image capture unit, and a display unit

(LCD 402) adapted to display the first image (image data) (col. 4, lines 8-1 1). Anderson teaches

that a second image (text) is displayed on the LCD screen (col. 7, lines 52-55, col. 8, lines 16-

36). The superimposing unit and the display of the second image superimposed on the first image

are inherently taught. Anderson teaches the determination of the camera orientation, and that the

second image (text) may be rotated as well as the first image (image data) so that the user can

view the first and second images (image and text) in the same orientation, which reads on a

process of rotating the second image according to a rotation of the image processing apparatus

before the second image is superimposed on the first image (col. 7, lines 63-64, col. 8, lines 39-42). Anderson does not teach an outputting unit to output the first image on which a third image is superimposed. The admitted prior art teaches that an image (image data) with a superimposed third image (text) is outputted to a TV monitor (page 5, line 22-page 6, line 8, Fig. 6D). The outputting unit is inherently taught. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the outputting of a third image superimposed upon a first image taught by the admitted prior art in the image processing apparatus taught by Anderson to make an image processing apparatus that reads out second and third images, rotates the second image, superimposes the second and third images upon a first image, displays the first image with the second image superimposed thereupon, and outputs the first image with the third image superimposed thereupon. One of ordinary skill would have been motivated to make such a modification to enable an image to be outputted to multiple channels in an orientation appropriate to the display or outputted channel. Anderson in view of admitted prior art does not teach rotating the second image without rotating the first image. However Masimo et al. teaches rotating the functional message data (text) without rotating the first (image) data (col. 2 lines 6-50, col. 3 lines 29-51, figures 2C-2F) in order to view the text clearly in an uprightly fashion. Therefore taking the combined teachings of Anderson, admitted prior art and Masimo et al., it would have been obvious to one skilled in the art to have been motivated at the time of the invention to rotate the second image data (text) without rotating the first image data. The benefit of doing so would be to have a picture of easy visibility to the user by displaying the functional message information (text) in the correct direction thus improving the operational capability as taught in Masimo (col. 2 lines 46-50).

[Claim 25]

Anderson teaches the rotation of the first image (image data) according to a rotation of the image

processing apparatus (col. 7, line 6O-col. 8, line 16, Figs. 1 0A and l0B). Anderson teaches that a

third image (text) is displayed with the first image (image data) (col. 7, lines 52-55, col. 8, lines

16-36). Anderson teaches the first and third images (image and text) are viewed in the same

orientation, which reads on a process of rotating the first image according to a rotation of the

image processing apparatus before the third image is superimposed on the first image (col. 7,

lines 63-64, col. 8, lines 39-42). The admitted prior art teaches that an image (image data) with a

superimposed third image (text) is outputted to a TV monitor (page 5, line 22-page 6, line 8, Fig.

6D). Masimo et al. teaches rotating the functional message data (text) without rotating the third

(image) data (col. 2 lines 6-50, col. 3 lines 29-51, figures 2C-2F).

[Claims 28 and 29]

These are method claims corresponding to apparatus claims 24 and 25. Because the apparatuses

of claims 24 and 25 are taught, the methods corresponding to the apparatuses are also taught.

[Claim 26]

Anderson teaches a digital camera 1 10 comprising: an image capture unit (imaging device 1 14)

(Fig. 3), a memory (DRAM 346) adapted to store a first image (image data) captured by said

image capture unit, and a display unit (LCD 402) adapted to display the first image (image data)

(col. 4, lines 8-1 1). Anderson teaches that a second image (text) is displayed on the LCD screen

(col. 7, lines 52-55, col. 8, lines 16-36). The superimposing unit and the display of the second

image superimposed on the first image are inherently taught. Anderson teaches the determination

of the camera orientation, and that the second image (text) may be rotated as well as the first

image (image data) so that the user can view the first and second images (image and text) in the same orientation, which reads on a process of rotating the second image according to a rotation of the image processing apparatus before the second image is superimposed on the first image (col. 7, lines 63-64, col. 8, lines 39-42). Anderson does not teach an outputting unit to output the first image on which a third image is superimposed. The admitted prior art teaches that an image (image data) with a superimposed third image (text) is outputted to a TV monitor (page 5, line 22-page 6, line 8, Fig. 6D). The outputting unit is inherently taught. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the outputting of a third image superimposed upon a first image taught by the admitted prior art in the image processing apparatus taught by Anderson to make an image processing apparatus that reads out second and third images, rotates the second mage, superimposes the second and third images upon a first image, displays the first image with the second image superimposed thereupon, and outputs the first image with the third image superimposed thereupon. One of ordinary skill would have been motivated to make such a modification to enable an image to be outputted to multiple channels in an orientation appropriate to the display or outputted channel. Anderson in view of admitted prior art does not teach rotating the second image without rotating the first image. However Masimo et al. teaches rotating the functional message data (text) without rotating the first (image) data (col. 2 lines 6-50, col. 3 lines 29-51, figures 2C-2F) in order to view the text clearly in an uprightly fashion. Therefore taking the combined teachings of Anderson, admitted prior art and Masimo et al., it would have been obvious to one skilled in the art to have been motivated at the time of the invention to rotate the second image data (text) without rotating the first image data. The benefit of doing so would be to have a picture of easy

visibility to the user by displaying the functional message information (text) in the correct

direction thus improving the operational capability as taught in Masimo (col. 2 lines 46-50).

[Claim 27]

Anderson teaches the rotation of the first image (image data) according to a rotation of the image

processing apparatus (col. 7, line 6O-col. 8, line 16, Figs.10A and 1OB). Anderson teaches that a

third image (text) is displayed with the first image (image data) (col. 7, lines 52-55, col. 8, lines

16-36). Anderson teaches the first and third images (image and text) are viewed in the same

orientation, which reads on a process of rotating the first image according to a rotation of the

image processing apparatus before the third image is superimposed on the first image (col. 7,

lines 63-64, col. 8, lines 39-42). The admitted prior art teaches that an image (image data) with a

superimposed third image (text) is outputted to a TV monitor (page 5, line 22-page 6, line 8, Fig.

6D). Masimo et al. teaches rotating the functional message data (text) without rotating the third

image data (col. 2 lines 6-50, col. 3 lines 29-51, figures 2C-2F).

[Claims 30 and 31]

Regarding claims 30 and 31, because the apparatuses of claims 26 and 27 are taught, the methods

corresponding to the apparatuses are also taught.

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Yogesh K Aggarwal whose telephone number is (703) 305-0346.

The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA
November 12, 2004

TUAN HO
PRIMARY EXAMINER